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Orig. Sec

CIA 1.01 Helms, Richard
N - Dulles, Allen
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Richardson, William B.

CIA FUNDING CHALLENGED; PRESS SUPPRESSES STORY

Mass Media Ignore Item

A virtual news blackout has been declared by the nation's press concerning the major legal challenges that have been launched against the Central Intelligence Agency.

The August 10 filing of a suit in Washington against CIA Director Richard Helms and other government officials was a matter of court record and easily accessible to the news media. In addition, a news release containing essential facts about the story was hand delivered to the Washington Post, the Evening Star, the Associated Press and United Press International.

A week later, not one line concerning it had appeared anywhere in the country.

It was confirmed by THE VOICE that editors were well aware of the story and its importance.

A call to one of Washington's two dailies by a source accessible to THE VOICE produced this comment from a leading reporter: "You can call it a 'press conspiracy' if you like, but we're not going to print it and I'm sure no one else is either."

Earlier this year on July 20, an important decision in the U.S. Third Circuit Court of Appeals guaranteed that the CIA would be brought to court on a challenge that had been in process since 1968. America's

greatest newspaper "of record", the New York Times, ignored the story, as did the Washington Evening Star and most other papers. The Washington Post carried the story as a small item on page ten.

Special Edition

The Washington Post, The Evening Star, the news services and the local radio stations have seen fit to suppress one of the major news stories of the year--the legal challenges to the nerve center of American imperialism, the Central Intelligence Agency.

For this reason THE VOICE felt obligated to fill the void by bringing out the first "special edition" in its young life.

Domestic Spying

The National Security Act which created the CIA states that it shall not have "police, subpoena, law-enforcing powers or internal security functions." The CIA has been operating in violation of this law for at least fifteen years and probably longer.

In early 1966 Richard Helms, the Director of the CIA, in testimony to the Senate Foreign Relations Committee stated flatly that the CIA does not operate in the United States.

Yet in 1964 in a court case involving two Estonian emigres the CIA presented to the court a secret document authorizing it to engage in certain domestic activities.

This authorization was in the form of an executive order which seems to be in direct violation of the act creating the CIA.

As a matter of fact the domestic operations of the CIA were so large by 1964 that it set up a Domestic Operations Division with headquarters at 1750 Pennsylvania Ave., about a block and a half from the White House.

Major breaks in CIA secrecy in 1966 and 1967 resulted in disclosures that the CIA was very heavily involved in financing all types of programs at such major universities as Michigan State and the Massachusetts Institute of Technology.

In addition, it was revealed that the CIA had subsidized many domestic organizations including the major American student organization, The National Student Association. CIA money also found its way into at least twenty foundations, as well as Radio Free Europe, a large publishing house, and various other organizations.

Have the CIA's domestic operations ceased? A simple inspection of telephone books discloses that today the CIA has offices in at least twenty American cities.

Court Moves

Hit Secrecy

America's "invisible government," the Central Intelligence Agency (CIA), owes its existence to a piece of legislation that is unconstitutional.

This is the likely import of recent actions in Federal Courts in Washington and Philadelphia.

In a suit filed August 10, in the U.S. District Court for the District of Columbia, three Washingtonians challenged the secrecy of the CIA's funding and accounting.

The Washington suit followed closely a trailblazing decision on July 20 of this year by the

The Washington suit followed closely a trailblazing decision on July 20 of this year by the U.S. Third Circuit Court of Appeals in Philadelphia. In that decision a majority of the court held that there was a serious legal question concerning the constitutionality of the CIA act of 1949 which established a secret procedure for financing the agency.

A Virtually Ignored Clause

Both court cases are based on a virtually ignored clause of the United States Constitution specifically requiring that "a regular Statement and Account of all public Money shall be published from time to time." The CIA act of 1949 just as explicitly states "...Sums made available to the Agency may be expended without regard to the provisions of Government funds. funds."

The spy agency receives somewhere between four and twenty billion dollars each year in public funds (how much is a closely guarded secret) that are carefully hidden throughout the appropriations figures for the entire federal government.

A Special Three-Judge Tribunal

In the Philadelphia action

the appellate court sent the case to a special three-judge tribunal for determination. That case was brought by William B. Richardson of Greensburg, Pennsylvania, shortly after the CIA scandal of early 1968 when Ramparts magazine revealed that the agency had been secretly financing the international activities of the National Student Association.

The appellate court decision was by the entire body of nine judges, which ruled six to three in Richardson's favor.

Prior to its decision, the court gave added importance to the case by requesting an Amicus (friend of the court) brief from former Solicitor General Ralph Spritzer, now a law professor. Spritzer argued that the challenged CIA act laws were invalid.

The importance attached by the government to Richardson's appeal was indicated by their appointment of two Assistant Attorneys General to prepare the opposing brief.

The tribunal then added, "If these reports (of the spending of federal money) are misleading and inadequate, there is no reason why Richardson, as a taxpayer, should not be able to require the appropriate executive officer to perform his obligations."

D.C. Plaintiffs

The D.C. suit was brought by William Higgs, Loren Weinberg, and Arnold Freiman. Higgs is the young civil rights attorney who participated with Julius Hobson in bringing the suit which overturned the odious track system in the D.C. schools.

It goes further than the Richardson case in several respects. It asked for the court to act prior to the November elections, alleging that the "plaintiffs desire to be informed voters in choosing between President Nixon and George McGovern."

The new suit also asks for a state-by-state and nation-by-nation breakdown of CIA expenditures, as well as separating the

money into categories by functions. CIA Director Richard Helms and Eliot Richardson, Secretary of the Department of Health, Education and Welfare are brought into the local suit.

The DC litigation asks the court to end all secret financing of domestic organizations by the spy agency. A final request of the court is to order the CIA to cease conducting military activities.

As soon as it was filed, the D.C. case was assigned to U.S. District Court Judge William Bryant. Bryant will make the initial determination as to whether a special three judge court is required. If he decided it is, then he will by law refer the matter to U.S. Court of Appeals for the District of Columbia. Chief Judge David Bazelon would then be responsible for the appointment of the special three person court.

"...we have gone far indeed toward permitting the intelligence agency, and the executive in general, to exercise unrestrained powers over our foreign relations and, to an alarming degree, over important areas of our domestic life as well. So far has this trend advanced that the values of our society are now endangered by the means intended for their defense."

"Whatever we do to try to resolve this dilemma, whatever we do to defend our national values, we ought never to forget that the foremost safeguard of these values is the American Constitution. It can be changed, when it is found wanting, by the means designated in the Constitution itself. But in the words of Washington's greatest address: 'Let there be no change by usurpation, for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.'"

Senator Fulbright in an article in the New York Times Magazine, April 23, 1967

continued

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Lucas Variety - - - - - H & 11th Streets, NW
McCoy Foods - - - - - 10th & S.O. Carolina Ave., NW
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Step One - - - - - 7054 Carroll (Tacoma Park, Md.)
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Universal Newstands - - - - - 503 - 14th Street, NW
603 - 15th Street, NW
University Card & Gift Shop - - - 2727 Georgia Ave., NW

Arnie Freiman

Twenty-two year old Arnie Freiman is presently working on his doctorate degree in education from the University of Massachusetts.

He was co-founder and is presently co-director of Communitas - a new two year university without walls program in Washington opening in January, 1973.

The program has a project-oriented curriculum designed to develop the necessary skills for local and regional people to achieve political and economic self-sufficiency.

Prior to taking on his present activities Arnie Freiman worked for the Urban Law Institute as a Community Action person, for a citizens group in the Model Cities Program in Wilmington, Delaware, and for the Washington Center for Metropolitan Studies.

Loren Weinberg

Since 1968, Loren Weinberg, 29, has been an assistant professor of Political Science at Federal City College.

Mr. Weinberg, who was one of the founding members of the DC Statehood Party, led the Ward 6 organization in Julius Hobson's congressional campaign, and is currently active in Charles Cassell's campaign for non-voting delegate. He is also co-ordinating the Statehood Party's economic study of the DC government's revenue structure.

Presently a member of the New American Movement, Loren Weinberg's past involvement includes tenant organizing in Harlem, community organizing among Chicanos in Colorado, and presiding over Local 1855, American Federation of Teachers, AFL-CIO.

CIA Imperialism

First 25 Years

1947 CIA set up by National Security Act.

1949-53 CIA supports anti-government guerillas in Burma despite continuing protests of Burmese government.

1950 CIA tries to oust Jose Figueres, President of Costa Rica.

Peoples Republic of China captures John Thomas Downey and Richard George Fecteau and charges them with being CIA agents parachuted into China to organize subversive activities.

1952 CIA backs Phoumi Nosavan for premier in Laos.

1953 Kermit Roosevelt, grandson of Theodore Roosevelt, leads CIA organized revolt and overthrows the government of Premier Mohammed Mossadegh in Iran.

January 12, China shoots down airplane carrying eleven American airmen over Chinese territory illegally.

1954 CIA supports organization of army in Honduras which invades Guatemala and overthrows the government of Jacobo Arbenz Guzman.

CIA begins inter-

ference in Vietnam and supports selection of Ngo Dinh Diem as head of government in the South.

1956-61 CIA organizes U2 flights over U.S.S.R. and flights continue even after U.S. pilot Gary Powers is shot down in May, 1960.

1958 CIA supports groups trying to overthrow President Sukarno of Indonesia. Allen Lawrence Pope shot down in B26 over Indonesia

1961 April 15, 1961 nine CIA B26's take off from Puerto Cabezas, Nicaragua: destination Cuba. The beginning of the Bay of Pigs adventure to overthrow the Castro government in Cuba.

CIA participates in murder of Congolese leader Patrice Lumumba.

1962 CIA launches secret war in Laos under cover of Agency for International Development.

1963 CIA supports overthrow and murder of its own creation: Ngo Dinh Diem.

1965 Marines invade Dominican Republic.

1969 CIA murders alleged double agent in Vietnam.

1970 CIA organizes overthrow of Prince Norodom Sihanouk in Cambodia.

After Four Years Pennsylvania Man Wins In Court

About four and one-half years ago, during the NSA - CIA scandal, the New York Times published a list of approximately 100 organizations and agencies used as fronts through which the CIA funneled its monies.

Mr. William B. Richardson, an Insurance Claims Examiner, Greensburg, Pennsylvania, was very disturbed by the Times article. His knowledge of the Constitution had lead him to believe that expenditures of government agencies must be made public through the U. S. Congress which appropriates funds.

And so, in November, 1967, private citizen William Richardson, then 48, filed a law suit in Federal Court challenging the constitutionality of the secret funding of the CIA. Since that time, Mr. Richardson, an insurance man of 17 years, has been given "walking papers" by his employer and has suffered unemployment for more than a year.

For the past four and one-

half years, Mr. Richardson's case has been bouncing around the Federal judiciary, beaten back on one technicality after another. Finally, his works have borne fruit - the Third Circuit Court of Appeals decided in July, 1972 to recognize the seriousness of Mr. Richardson's case (The CIA case pending in Washington is a direct outgrowth of the Richardson case).

A VOICE correspondent, in an interview with Mr. Richardson, found him in good spirits. Now working in the Public Defenders office, Mr. Richardson, though dismayed by the lack of attention his case has received in the national press, does not regret his struggles over the past four and a half years.

... (The CIA) is an instrument for secret intervention in the affairs of other countries ...

Smith Simpson, former Foreign Service Officer

UNITED STATES COURTS OF APPEALS
FOR THE THIRD CIRCUIT

No. 19,277

WILLIAM B. RICHARDSON, Appellant

v.

UNITED STATES OF AMERICA; DAVID M. KENNEDY,
Secretary of the Treasury for the UNITED STATES;
and S. S. SOKOL, Commissioner of Accounts for the
Secretary of the Treasury, UNITED STATES Govern-
ment

(D. C. Civil Action No. 70-23)

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Argued June 25, 1971

Before VAN DUSEN and ROSENN, *Circuit Judges*,
and KRAFT, *District Judge*.

Supplemental Briefs Submitted December 2, 1971

Present: SEITZ, *Chief Judge*, VAN DUSEN, ALDISERT,
ADAMS, GIBBONS, ROSENN, ROSEN, HUNTER,
Circuit Judges, and KRAFT, *District Judge*,
on submission before the Court En Banc by Order
dated May 11, 1972

OPINION OF THE COURT

(Filed July 20, 1972)

Cover page of 3rd Circuit Court opinion.

Partial Text Of Appellate

(case decided July 20, 1972)

Decision:

In contrast to the case frequently heard on appeal, in which the Government seeks an accounting from the taxpayer, here it is the taxpayer who seeks an accounting from the Government.

Appellant, acting in propria persona, complained that the Government's consolidated statement, entitled "Combined Statement of Receipts, Expenditures and Balances of the United States Government," fails to show monies received and expended by the Central Intelligence Agency (CIA). He alleged that the Central Intelligence Agency Act relieving the Secretary of the Treasury from publishing such figures was repugnant to the Constitution and void. He sought a writ of mandamus to compel the Secretary of the Treasury to publish an accounting of the receipts and expenditures of the CIA and to enjoin any further publication of the Combined Statement which did not reflect them. His application for a three judge court was denied by the district court which subsequently dismissed the complaint on grounds of standing and justiciability. We will vacate the order of remand.

After oral argument, this court deemed the issues raised by the case of sufficient importance to necessitate the appointment of amicus curiae. Professor Ralph S. Spritzer of the University of Pennsylvania Law School, formerly Acting Solicitor General of the United States. He has submitted a thoughtful brief to which all parties have responded.

Because appellant sought to challenge the system by which the Federal Government accounts for funds spent by the Central Intelligence Agency, a brief explanation of that system is necessary to put his action in appropriate context.

The Federal Government's spending powers, enumerated in article I, section 9, clause 7, which provides:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

In accordance with this mandate, all federal agencies except the CIA receive an annual specific appropriation from the Congress. 31 U.S.C. §696. The Secretary of the Treasury then prepares an annual statement by "head of appropriation" for the use of the Executive, the Congress and the public reflecting how much each agency has spent during the previous fiscal year. 31 U.S.C. §66b(a), 1029. Since there is no specific appropriation for the CIA, its receipts and expenditures are not listed in the document.

The Central Intelligence Agency Act of 1949, 63 Stat. 208, 50 U.S.C. §403 et seq. (1970), established a unique procedure for funding the CIA. Section 403f (a) permits the CIA to transfer and receive funds from other agencies with the approval of the Bureau of the Budget (now Office of Management and Budget) "without regard to any provisions of law limiting or prohibiting transfers between appropria-

tions." Once the money has been spent, the CIA need not disclose its functions or personnel, 50 U.S.C. §403(g), and:

[t]he sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified. 50 U.S.C. §403 (j)(b).

This procedure creates a two-step system for disbursement of the Treasury's monies to the CIA. First, Congress appropriates money to some other agency, and then that agency transfers the funds to the CIA. The only accurate accounting for the funds is the certificate rendered by the Director of the CIA, but it does not appear that this certificate or its contents are made available to the public. Presumably the money actually spent is reflected in the Treasury Department's annual statement as a disbursement by the original agency to which Congress made the appropriation, although it may not be reflected at all.

Appellant Richardson, a citizen and taxpayer residing in Greensburg, Pennsylvania, wrote the Treasury Department, inquiring about the annual expenditures of the CIA. He was informed by defendant Sokol, the Treasury officer in charge of the publication of the annual statement, that Treasury Department did not receive information on the CIA because of the congressional determination that such information should not be made public. He further stated that neither he nor the defendant Secretary of the Treasury had access to the information appellant desired. There was no further administrative relief available.

Appellant then brought

action alleging that the appellees have a constitutional and statutory obligation to set forth an accurate accounting of the expenditures of the United States. He contended that the Central Intelligence Agency Act of 1949, which creates an exception for the CIA, is repugnant to the Constitution because its prohibition against reporting the CIA's expenditures contravenes the mandate of Article 1, section 9, clause 7. He asked that a three judge court be convened to determine the constitutionality of the Central Intelligence Agency Act, and that a mandamus issue against the defendants requiring them to publish a financial statement which complies with the commands of the Constitution and the remaining acts of Congress.

Appellant also alleged that the constitutional duty to provide a regular account of receipts and expenditures of public money is one owed to the citizen and taxpayer, for its obvious design is to provide members of the electorate with information lying at the core of public accountability in a democratic society.

Appellant alleges several grounds for jurisdiction, only one of which is proper. It is the relatively new Mandamus and Venue Act, 28 U.S.C. §1361, which states:

The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

What is the nature of the duty which appellant charges was breached? The duty alleged here arises under article 1, section 9, clause 7 as implemented by the Congress under 31 U.S.C. §§66b(a) and 1029.

Appellant's position is that save for the existence of the Central Intelligence Agency Act, Congress would have appropriated money specifically

for the CIA, and the Secretary of the Treasury would be required to give an accounting to the President, the Congress and the public for the agency's expenditures by that head of appropriation, as mandated by 31 U.S.C. §1029.

The Government argues that no specific duty exists because the Congress has, by the Central Intelligence Agency Act, relieved the Secretary of the Treasury of the obligation to publish a statement pertaining to funds received and expended by the CIA. It also contends the Secretary cannot be under such an obligation because he does not possess the CIA's accounts.

We do not decide the constitutionality of the Central Intelligence Agency Act. However, for the purpose of determining whether mandamus will lie against him in the federal courts, an officer of the Government cannot deprive the court of jurisdiction to compel performance of an otherwise clear statutory duty by invoking the authority of what is challenged as an unconstitutional law.

Therefore, the Government may not rely on the CIA Statute to preclude jurisdiction of this mandamus action.

Except for the CIA Statute, the Secretary of the Treasury is under a clear command of Congress to account for all monies as they are actually expended by the different federal agencies. In fulfilling that duty, he has no discretion. 31 U.S.C. §1029.

Nor are we persuaded by the Government's argument that the duty of the Secretary of the Treasury is not specifically owed to the appellant. The debates at the Constitutional Convention in 1787 and the state ratifying conventions reveal that those who proposed the present language of the clause believed that the citizenry should receive some form of accounting from the Government. The use of the

Government. The use of the word "published" in article 1, section 9, clause 7 emphasizes that intention.

This constitutional obligation to account to the public is supported by the Congressional enactment of 31 U.S.C. §66b(a), which provides:

The Secretary of the Treasury shall prepare such reports for the information of the President, the Congress, and the public as will present the results of the financial operations of the Government....(emphasis supplied).

Thus Congress' own language indicates that the Secretary's duty to present financial reports runs not only to the President and the Congress, but also to the public at large. If these reports are misleading and inadequate, there is no reason why Richardson, as a taxpayer, should not be able to require

the appropriate executive officer to perform his obligations.

Appellant's case meets all the considerations required for mandamus. While mandamus should be construed liberally in cases charging a violation of a constitutional right, even under principles of strict construction Appellant has set forth a clear duty owed to him by the Secretary of the Treasury.

The appellant must also have sufficient standing in order to invoke the jurisdiction of a federal court. Article III, section 2 limits the judicial power of federal courts to consideration of "cases" or "controversies."

A responsible and intelligent taxpayer and citizen, of course, wants to know how his tax money is being spent. Without this information he cannot intelligently follow the actions of the Congress or of the Executive. Nor can he properly fulfill his obligations as a member of the electorate. The Framers of the Constitution deemed fiscal information essential if the electorate was to exercise any control over its representa-

tives and meet their new responsibilities as citizens of the Republic; and they mandated publication, although stated in general terms, of the Government's receipts and expenditures.

It would be difficult to fashion a requirement more clearly conveying the framers' intention to regularize expenditures and to require public accountability.

We note that if appellant, as a citizen, voter and taxpayer, is not entitled to maintain an action such as this to enforce the dictate of article I, section 9, clause 7, of the United States Constitution that the Federal Government provide an accounting of the expenditure of all public money, then it is difficult to see how this requirement, which the framers of the Constitution considered vital to the proper functioning of our democratic republic, may be enforced at all.

The complaint...contains sufficient allegations to give the appellant standing consistent with article III of the Constitution to invoke the court's jurisdiction for an adjudication on the merits.

We next consider whether a three judge court should have been convened to hear appellant's complaint. 28 U.S.C.

2282 provides that an application for an injunction restraining the enforcement, operation or execution of any act of Congress for repugnance to the Constitution of the United States shall not be granted by any district court unless heard by three judges.

The ultimate effect of this action, if successful, will be to alter immediately the operation of critical features of the Central Intelligence Agency Act. Further, while based on the mandamus statute, this action contemplates injunctive relief in aid of the mandamus through restraining the publication of the Combined Statement of Receipts Expenditures and Balances until it reflects the CIA's operations.

In these circumstances we hold that the district court was required to request the con-

vening of a three judge court, unless it appears that the constitutional issue raised by appellant in this action is insubstantial.

Whether the issue is insubstantial must be determined by the allegations of the bill of complaint.

The appellant seeks to void legislation allegedly repugnant to a specific constitutional mandate. The language of article 1, section 9, clause 7 could be reasonably construed in appellant's favor, and there is nothing in prior decisions of the Supreme Court which forecloses such interpretation.

An additional reason for dismissal of this action by the district court was that the question posed by appellant in his complaint was not justiciable because it was barred by the political question doctrine. We make no comment except to state that this issue is intertwined with the merits of the case and it must be left for development at the subsequent hearing before the three judge court.

We conclude, therefore, that the complaint presents a constitutional cause of action raising a substantial question which requires the convening of a three judge court. On remand, the district judge will take appropriate steps to request the Chief Judge of this Court to designate a statutory three-judge court. All remaining issues not resolved in this opinion shall be adjudicated by the court so convened.

NSA Act Of 1947

CENTRAL INTELLIGENCE AGENCY

Sec. 102. (a) There is hereby established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof. . . .

CIA Act Of 1949

GENERAL AUTHORITIES

Sec. 6. In the performance of its functions, the Central Intelligence Agency is authorized to--

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Bureau of the Budget, for the performance of any of the functions or activities authorized under sections 102 and 303 of the National Security Act of 1947 (Public Law 253, Eightieth Congress), and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of this Act without regard to limitations of appropriations from which transferred;

(b) Exchange funds without regard to section 3651 Revised Statutes (31 U.S.C. 543);

(c) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are hereby authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency; . . .

Sec. 7. In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102 (d) (3) of the National Security Act of 1947 (Public Law 253, Eightieth Congress, first session) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of sections 1 and 2, chapter 795 of the Act of August 28, 1935 (49 Stat. 956, 957; U.S.C. 654), and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: Provided, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 607, title VI, chapter 212 of the Act of June 30, 1945, as amended (U.S.C. 947 (b)). . . .

APPROPRIATIONS

Sec. 10.(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

EDITORIALS***A Shocking Fact***

Not one newspaper nor one press service has carried a line about the Washington challenge to the very foundation of the Central Intelligence Agency.

It is amazing, for instance, that the Washington Post, critic of Nixon's Vietnam policy and a publisher of the Pentagon Papers, is absolutely mute on the subject of the constitutionality of the CIA Act of 1949.

It seems almost unbelievable that America's most prestigious newspaper of record, the New York Times, carried no story on the extremely important federal appeals court decision of July 20 stating that there was a serious constitutional question involved in CIA funding and reinstating a case that had been virtually thrown out of court.

But There Is A Reason

The Central Intelligence Agency is truly the central nervous system of the monster that is American imperialism. To challenge it comes close to challenging the system itself.

Vietnam has been a disaster for American foreign policy and liberal establishment opposition to Nixon's course in Vietnam has simply registered this fact. For them, opposition on Vietnam is often a way of rescuing imperialism - not attacking it. The suppression of the CIA story by the liberal press is either an attempt to protect it by a conspiracy of silence, or else the media moguls are painstakingly deferring an adequate response to the revelations.

A Challenge To The Candidates

A more interesting question will be the response of the candidates in this election year, 1972.

Will Richard Nixon, who has assured America that he is a "strict constructionist" on constitutional matters insist on a strict construction on this obviously unconstitutional law? Will he give the orders immediately to publish the real budget of the CIA? Will he request the legislation that will give the taxpayers and voters some inkling of the amount of funds spent and the uses to which they were put?

And George McGovern. Will Nixon's leading critic demand the publication of the real CIA budget? Will he insist that no more funds be expended on overthrowing unfriendly foreign governments, assassinating their leaders or subverting their institutions?

Obviously, in the best interests of the country the candidates should speak out. But, being skeptics, we won't hold our breath.

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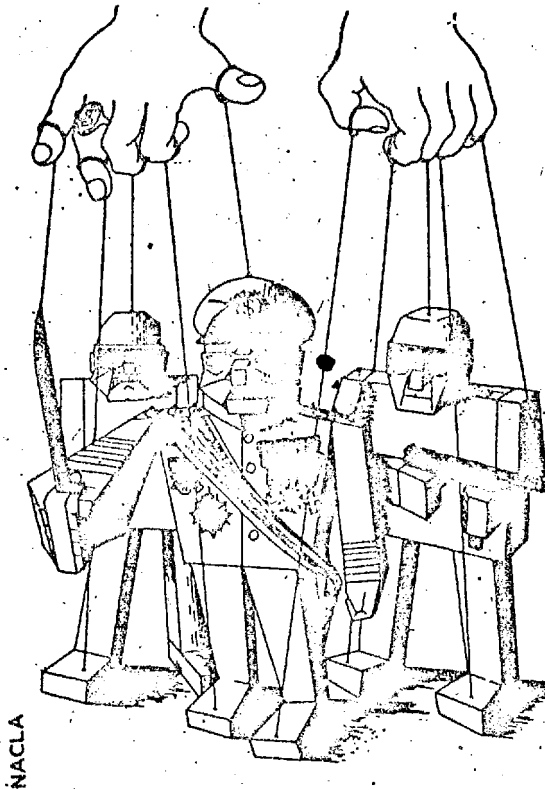
It stands with Black and minority people against racism and super-exploitation.

It stands with all oppressed nations for their liberation from the same capitalist forces organized as a world imperialist system.

It supports the day to day fight of the people to better their lives, but it understands that until the system itself is replaced the struggle will be intense and endless.

The system that -- as sure as day follows night -- will replace capitalism will end forever the exploitation of the many by the few. It will be led by the working people themselves.

Its name is socialism.



NACLA

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VOICE Interview

"They're not going to like this case"

THE VOICE interviewed Mr. William Higgs at some length. An excerpt from that interview follows.

VOICE: To begin, how did you get into this case?

Higgs: For a long time I've been very interested in and concerned about the CIA - what its been doing in this country and its effects on people all over the world.

I've been very interested in finding any way possible, particularly a legal method if possible, to do something about the CIA's secret activities.

I learned about three weeks ago that Mr. William Richardson from Greensburg, Pennsylvania, had brought a suit on his own and got a favorable decision, by a 6 to 3 vote of the entire bench of the Third Circuit Court of Appeals sitting in Philadelphia saying that the question of disclosure of secret financing of the CIA presented a substantial question for the Courts under the Constitution, and remanding the case for a full hearing by a special court of 3 Federal Judges.

Mr. Richardson, who is not a lawyer, evidently just took the Constitution and read it and he found the particular provision almost no one had ever thought about, which is Article 1, Section 9, Clause 7, which says that the expenditures and receipts of all government agencies shall be full accounted for by publication and said to the Court: Look, we have this section of the Constitution. Its clear what it means. The CIA is a government agency and hence, I want a report from the CIA.

I would say thats really the guts of the case and how I came to be involved.

VOICE: Specifically, what are the objectives of the suit you have filed here in D.C.

Higgs: We want the CIA to report in detail, before the November 7 elections, all of its receipts and expenditures of money. In other words, we want to know state by state and country by country how much money has been spent. For every state we want to have a functional breakdown - whether the money was used to publish magazines or to fund organizations or whatever. The same is true internationally. We want to know how much CIA money in each know how much CIA money is spent and for what in each country.

VOICE: What do you think the reaction to this suit will be by foreign governments?

Higgs: I think there's going to be a lot of concern about this. Obviously a foreign government in which U.S. activities are unpopular will realize that there is a substantial chance that its funding-secret funding from the U.S. Central Intelligence agency- will be made public, including the types of activities for which it receives the funding.

For example, assume the CIA is active in Brazil, including providing funding for materials to torture people. If this suit is successful, these activities will be made public, and obviously, the Brazilian government is going to be somewhat concerned. Or take the situation in Chile where, as you know, the CIA was quite active in attempting to overthrow the government.

VOICE: What kind of defense can the government prepare for this case?

Higgs: I'm not sure. They're not going to like this case. They may even try retaliation of some kind. Clearly they will defend this as far as they need to, as they have in the Richardson

VOICE: What are their options?

Higgs: The only options are what are called technical legal defenses. There is simply no arguing with the Constitution. The Constitution says point blank that the government will publish an accounting of its activities- receipts, expenditures, or whatever. There is no way around that in substance.

So all they can do is argue a number of technical legal defenses. These go under the names of political question defense, standing defense or jurisdictional defense or that sort of thing.

VOICE: And those defenses essentially challenge your right to make such a suit?

Higgs: Yes, they essentially say that a citizen who is no more than a citizen, taxpayer and voter has no right to even bring a case like this, because your standing is so "insignificant".

VOICE: Is the CIA operating domestically?

Higgs: I think they are. Obviously, the disclosures surrounding the funding of the National Student Association in 1968 point to this.

VOICE: The case is now before Judge Bryant here in Washington. What are his alternatives in handling the case?

Higgs: Well, first he can refuse to convene a three judge court on the ground that there is no substantial federal question presented by the complaint. This is the same as dismissing the case. If he does this, we can appeal to the Court of Appeals.

Or he could follow the Third Circuit's decision in the Richardson case and say there is a substantial issue here and certify the case to the Court of Appeals- to Judge Bazelon.

Finally, Judge Bryant could simply say that the complaint is so clearly correct that there is no need for a three

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judge court, and he could grant the relief that is asked for.

VOICE: *When might Judge Bryant make his decision?*

Higgs: He could do so any day, but I would anticipate that he will take up to two weeks.

VOICE: *What kind of political pressures are there on the court in a case like this?*

Higgs: I think there could be enormous political pressures on the court. I hope we have judges who could withstand these pressures and I think we may have, but I think the pressures could be absolutely enormous, however, because, of course, if the CIA act is, in part, declared unconstitutional, its impact on this society and, indeed, on the entire world is going to be very great.

VOICE: *It seems to us that if the suit is successful, it will open the CIA to a much closer scrutiny than it has ever been given before. For instance, it is impossible to determine whether or not the Agency employs Blacks or women at this time.*

Higgs: This is certainly true. Many people see the CIA as a bastion of racism in the world- the brains of racism and power in the world. If the racial composition is like the FBI- which is the closest guess we can make- then there may be quite a bit of proof to certain elements of this charge.

VOICE: *There are several Congressional committees theoretically charged with reviewing CIA activities- The CIA oversight committee, for example. Don't they have some responsibility in this case?*

Higgs: Members of congress themselves have a direct responsibility to enforce the Constitution, including this section, and they have failed their duty; in my opinion, miserably. I think, quite honestly, there is no member of congress who knows what the CIA is doing. I think their own debates bear this out. The committee members often do not even know what questions to ask to find out.

VOICE: *Do you expect to be harrassed as a result of this suit?*

Higgs: Oh, I think this is a real possibility. Hopefully this will be litigated in a fair and equitable fashion, but possibilities of personal harassment are certainly there.

Activist Returns To D.C.

William L. Higgs was born 36 years ago in Greenville, Mississippi.

After receiving a B.A. degree from "ole Miss" in 1955 and an LL.B. degree from Harvard Law School in 1958, Mr. Higgs returned to Greenville in 1959 to begin a career of civil rights activities which led to his being "run out of the state" a mere three years later.

During the 1960 Presidential campaign, Bill Higgs served as the Mississippi State Chairman of the Citizens for Kennedy-Johnson - not a cautious beginning in the land of the Dixiecrats. He went on to be the first lawyer to represent James Meredith in his fight to enter the U. of Mississippi. A 1961

lawsuit against the Governor, the State Sovereignty Commission, and the White Citizens Council (the suit charged the state with secretly funding the White Citizens Council with over half a million dollars) also did not endear him to the power structure in his home state. It is probable that the straw that broke the camel's back was Bill Higgs' close association with Medgar Evers, who, at the time of his murder, was Field Secretary for the NAACP in Miss.

Bill Higgs' D.C. activities include work with Julius Hobson on the famed Skelley Wright school decision which abolished the racist track system in the D.C. public schools and the founding of the Washington Human

Rights Project. This Project utilized college students and law students to do the invaluable research which helped to force the Congress to adopt the Civil Rights Act of 1964 and the Voter Rights Act of 1965. He also represented the Student Nonviolent Coordinating Committee (SNCC) during this period.

In 1968 Bill Higgs moved to New Mexico to work with Reies Tijerina, Chicano liberation activist and with Alianza Federal de Pueblos Libres - a Chicano land grant organization.

Bill Higgs returned to Washington about a month ago. He is again working with Julius Hobson as a consultant for the Washington Institute of Quality Education.

"Sordid Story"

CIA Works To Subvert Labor

The most shameful and most secret betrayal of American labor is the partnership between the AFL-CIO bureaucracy and the Central Intelligence Agency.

If the lawsuit to force the CIA to reveal its budget is successful, we may learn the extent to which the nation's labor unions have been used to enforce United States foreign policy.

The facts revealed in the CIA scandals of 1966-67 when the CIA's system of financing labor and other organizations through dummy foundations was exposed, barely scratch the surface. Nonetheless, they tell a truly sordid story.

The powerful leftist labor organizations of post World War II Europe were a source of concern to the United States government. It was necessary to stop the growth of these organizations and prepare the way for the Marshall Plan.

CIA Funds Unions Abroad

Using funds furnished by David Dubinsky, head of the International Ladies Garment Workers Union, Jay Lovestone, expelled ex-leader of the Communist Party and long term CIA operative within union ranks, and his assistant, Irving Brown, organized Force Ouvriere, an anti-Communist French union.

The CIA soon took over the financing and spread the idea of the secretly subsidized trade union to Italy. These unions were then used to set up networks of international organizations throughout Europe, Latin America and Asia.

Wherever there were unions which would not cooperate with the CIA, they tried to set up competing organizations and destroy the existing unions. (A detailed account of the CIA's use of labor agents is available in CIA and America by George Morris, International Publishers, N.Y., 1966.)

Typical Transaction

Lovestone soon was receiving \$2 million a year for his overseas operations. In a Saturday Evening Post story, Thomas Braden, then a special assistant to Allen Dulles, reported a typical transaction in which he gave Irving Brown \$15,000 of CIA money to pay off strong-arm squads in Mediterranean ports so that American supplies could be unloaded despite the opposition of French dockworkers.

Lovestone, as an AFL-CIO official, used the structure of the International Confederation of Free Trade Unions (ICFTU) as a channel for CIA operations, causing embarrassment to unions in other countries and casting suspicion on relations with the AFL-CIO representatives.

In time, the CIA's heavy handed tactics became so obvious that the ICFTU fell into open conflict with the AFL-CIO leaders. The idea of making anti-

Communism the major task of an international labor organization had become unacceptable to even some of the more anti-Communist leaders of European unions.

In the spirit of fraternal relations, some European union leaders began to visit the Soviet Union and other socialist countries as guests of their unions. It was evident that the AFL-CIO and CIA team would have to look elsewhere for a front.

In 1962, George Meany, Lovestone, Joseph Beirne (president of the Communications Workers of America) and Dubinsky started to build their own "international" -- the American Institute for Free Labor Development (AIFLD). In 1959, the Communications Workers of America school in Virginia began to train handpicked Latin American students for "labor leadership". U.S. George Meany met with then Secretary of Labor Arthur Goldberg

and President Kennedy and AIFLD was officially established.

The government expressed its interest in the "institute" with an initial grant of \$396,000 for 1962. Over \$1.5 million worth of support was forthcoming from big business. Meany boasted a list of 80 corporate contributors, most of them the U.S.'s biggest corporations with interests in Latin America, including Anaconda, Chase Manhattan Bank, Kennecott Copper, ITT, Pan-Am, Rockefeller Brothers Fund and W.R. Grace and Co.

"I do not think there is anything inherently reprehensible in cooperation with descendants of capitalists, even with some whose past positions leave something to be desired."

Joseph Beirne

Testifying before the Senate Foreign Relations Committee, August 1, 1969, Meany explained the unanimous decision of the Executive Board of the AFL-CIO to bring business into AIFLD. "We felt business should have the same interest in Latin America as we have, ... safe, sound free societies. Especially if they were businesses that had some business to do in Latin America."

Responding to Senator Frank Church's statement that financing by government and big business destroyed the independent image of the AFL-CIO among workers abroad and thereby limited its influence, Meany would say only "No, I don't

continued

think so." and followed with his usual claim that such arguments came from Communists.

The American Institute For Free Labor Development (AIFLD) with its staff of some 200 roaming the area in the guise of

educators and administrators, focused on the growing leftist movement in Latin America. Parallel organizations such as the African-American Labor Center (AALC) with Irving Brown as director, and the Asian-American Free Labor Institute (AAFLI) headed by George O'Keefe (who had been a leading figure in the overthrow of Cheddi Jagan's progressive regime in Guyana) were then established.

George Meany kept top control as chairman of all three organizations. The Labor Advisory Committee on Foreign Assistance, an overall coordinating body between the AFL-CIO and the State Department was setup. It also is chaired by Meany.

Conduit to Latin America

When the CIA scandal broke, and AIFLD was revealed to be the most important conduit to Latin America, a new source for funneling government money into the AFL-CIO overseas projects became necessary. The Agency for International Development, which was already funding AIFLD in part, was perfect. Its grant to AIFLD alone jumped into the millions.

In the transcript of the August 1969 Senate Foreign Relations Committee hearing, Senator Fulbright disclosed that the bulk of the AID funds for "labor progress" were channeled through the AFL-CIO. By 1969, the three "institutes" had received over \$33 million. The 1970 AID budget allocated \$8 million, with a probable increase to \$10 million, to the projects.

The evidence indicates that leaders of only several unions in the AFL-CIO lent their international affairs departments to CIA projects. Most prominent in that group were Beirne's Communications Workers of America, the Oil, Chemical & Atomic Workers, the Retail Clerks Association, the State, County &

Municipal Employees, the American Newspaper Guild and the Brotherhood of Railway Clerks.

Several of these unions have independent "contracts" with AID for finances for unspecified tasks. Fulbright noted that there are many reports to the effect that these subcontractors formerly received funds through CIA sponsored foundations.

Some Unions Balk

Since the exposure of the CIA's connections with the AFL-CIO, union memberships have ended participation of a number of unions in AID contracts.

The Oil, Chemical & Atomic Workers ousted its leadership and eliminated CIA domination. The State, City & Municipal Employees elected Jerry Wurf president who promptly dismissed the two CIA agents that had been running the union's international affairs department. At its 1970 convention, the union denounced the U.S. policy in Indochina.

While Charles A. Perlick rose to the presidency of the American Newspaper Guild after admitting to the receipt of more than \$1 million from the CIA for Guild activities abroad, his union refused further funds and took a strong stand against the Indochina war and the murders at Kent State and Jackson State.

It is ironic to note that Fulbright called the hearings which are responsible for revealing the most current information on the alliance between the CIA and the AFL-CIO at Mr. Meany's insistence. Meany had objected to Fulbright's statement that the money the United States government gives to the "institutes" was a payoff for the federation's support of the Indochina war policy. Mr. Meany certainly proved that the government had gotten its moneys worth in intelligence operations around the globe. These activities were hidden not only from the general public but also from the AFL-CIO's rank and file membership. The exposure of the CIA budget might show us that this is merely the tip of the proverbial iceberg.

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